

Exhibit 1

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8 Attorneys for Plaintiff,
9 JOHN DOE T.F.

10 **SUPERIOR COURT OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES**

12 JOHN DOE T.F., an individual.

13 Plaintiff,

14 v.

15 AIRBNB, INC., a Delaware corporation; LUIS
16 ERNESTO HERNANDEZ, an individual; and
17 DOES 1-50, inclusive.

18 Defendants.

Case No.:

COMPLAINT FOR DAMAGES

1. ASSAULT
2. BATTERY
3. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
4. NEGLIGENCE

[JURY DEMANDED]

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20
21 COMES NOW, Plaintiff, JOHN DOE T.F. and alleges against Defendants, and each
22 of them, as follows:

23 **PARTIES**

24 I. Plaintiff JOHN DOE T.F. is filing this action under a pseudonym because Courts
25 generally allow the use of a pseudonym where a "legitimate privacy concern" exists and
26 pseudonyms especially in cases involving victims of sexual misconduct, assault or abuse.
27 (Starbucks Corp. v. Superior Court (2008) 168 Cal.App.4th 1436, 1452.).
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2. JOHN DOE T.F. is and at all times was, an adult male resident of Appleton, WI and was a guest who was sexually assaulted by Defendant LUIS ERNESTO HERNANDEZ on March 6, 2022.

3. JOHN DOE T.F. files this action under a pseudonym as he is a victim of sexual assault. Plaintiff proceeds in this manner to protect his legitimate privacy rights as further disclosure would expose him to stigmatization and invasion of privacy. Plaintiff further anticipates seeking concurrence from Defendants for entry into a protective order to prevent unnecessary disclosure of JOHN DOE T.F.'s real name in the public record.

4. Plaintiff is informed and believes, and based upon such information and belief alleges that at all times relevant hereto Defendants AIRBNB, INC., a Delaware corporation; LUIS ERNESTO HERNANDEZ, an individual; and DOES 1-50, inclusive, are, and at all times herein mentioned were individuals, corporations, sole proprietors, shareholders, associations, partners and partnerships, joint venturers, and/or business entities unknown, primarily residing and doing business in the County of San Francisco, and with Defendant AIRBNB, INC.'s principal place of business being located at 888 Brannan Street, 4th Floor, San Francisco, CA 94103. Said location is the center of Corporate decision-making with respect to safety precautions, guest safety, as well as decision-making with respect to AIRBNB, INC.'s response to the ongoing sexual attacks upon AIRBNB, INC.'s guests.

5. Plaintiff is informed and believes, and based upon such information and belief allege that at all times relevant hereto Defendants AIRBNB, INC., a Delaware corporation; LUIS ERNESTO HERNANDEZ, an individual; and DOES 1-50, inclusive, are, and at all times herein mentioned were individuals, corporations, sole proprietors, shareholders, associations, partners and partnerships, joint venturers, and/or business entities unknown, primarily residing and doing business in the County of Los Angeles, State of California. At all times herein mentioned, said Defendants were the owners, lessors, sub-lessors, managing agents, landlords, renters, managers, operators, marketers, inspectors, maintainers and controllers, of a residential property located at 11063 Cumpston St., #101, North Hollywood, CA 91601, (hereinafter referred to as "THE SUBJECT PREMISES").

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6. Defendants DOES 1-50, inclusive, are sued herein under fictitious names, their true names and capacities being unknown to Plaintiff. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged, and that Plaintiff's damages as herein alleged were proximately caused by those Defendants.

GENERAL ALLEGATIONS

7. On or about March 6, 2022 Plaintiff JOHN DOE T.F. was in the kitchen of his Airbnb and encountered Defendant LUIS ERNESTO HERNANDEZ in the common living room area. Defendant LUIS ERNESTO HERNANDEZ began to make inappropriate and unsolicited sexual comments towards Plaintiff.

8. Defendant LUIS ERNESTO HERNANDEZ approached Plaintiff and touched his penis.

FIRST CAUSE OF ACTION

(Assault Against Defendant LUIS ERNESTO HERNANDEZ)

9. The preceding paragraphs of this Complaint are incorporated by reference.

10. On or about March 6, 2022, Defendant LUIS ERNESTO HERNANDEZ, a host of Defendants AIRBNB, INC., a Delaware corporation; and DOES 1-50, inclusive, intentionally acted with the intent to cause harmful contact, approached Plaintiff and sexually assaulted Plaintiff JOHN DOE T.F..

11. Believing he was about to be touched in a harmful and sexual manner, Plaintiff attempted to avoid contact with Defendant LUIS ERNESTO HERNANDEZ.

12. On or about March 6, 2022 Defendant LUIS ERNESTO HERNANDEZ then sexually assaulted Plaintiff as he was in the kitchen area of the rental unit.

13. Plaintiff did not consent to Defendant LUIS ERNESTO HERNANDEZ's conduct.

14. As a result of Defendant LUIS ERNESTO HERNANDEZ's conduct Plaintiff JOHN DOE T.F. was physically and psychologically damaged, incurred medical bills, sustained

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1 disability and had to retain an attorney and has incurred legal costs in connection therewith
2 in order to prosecute this action.

3 15. Defendant LUIS ERNESTO HERNANDEZ's threatening, aggressive and sexual
4 behavior was a substantial factor in Plaintiff's fear for Plaintiff's reasonable physical person
5 and his sense of personal dignity.

6 16. Defendant LUIS ERNESTO HERNANDEZ's malicious and oppressive despicable
7 conduct set forth above was intended to cause injury to the Plaintiff and subjected the
8 Plaintiff to cruel and unjust hardship with a willful and conscious disregard for the
9 Plaintiff's rights and safety such that Defendant is subject to punitive damages as set forth in
10 California Civil Code § 3294.

11 **SECOND CAUSE OF ACTION**

12 **(Battery Against Defendant LUIS ERNESTO HERNANDEZ)**

13 17. The preceding paragraphs of this Complaint are incorporated by reference.

14 18. On or about March 6, 2022, Defendant LUIS ERNESTO HERNANDEZ, a host of
15 Defendants AIRBNB, INC., a Delaware corporation; and DOES 1-50, inclusive,
16 intentionally and with the intent to harm, sexually attacked Plaintiff; Defendant LUIS
17 ERNESTO HERNANDEZ sexually assaulted Plaintiff as he was in the kitchen area of
18 rental unit with such force that Plaintiff suffered injuries and damages.

19 19. Plaintiff did not consent to Defendant's conduct.

20 20. As a result of Defendant LUIS ERNESTO HERNANDEZ's conduct, Plaintiff JOHN
21 DOE T.F. was physically and psychologically damaged, incurred medical bills, sustained
22 disability and had to retain an attorney and has incurred legal costs in connection therewith
23 in order to prosecute this action.

24 21. Reasonable persons in Plaintiff's situation would have been offended by the manner
25 in which Defendant LUIS ERNESTO HERNANDEZ touched Plaintiff.

26 22. Defendant LUIS ERNESTO HERNANDEZ's malicious and oppressive despicable
27 conduct set forth above was intended to cause injury to the Plaintiff and subjected the
28 Plaintiff to cruel and unjust hardship with a willful and conscious disregard for the

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1 Plaintiff's rights and safety such that Defendant is subject to punitive damages as set forth in
2 California Civil Code § 3294.

3 **THIRD CAUSE OF ACTION**

4 **(Intentional Infliction of Emotional Distress Against Defendant LUIS ERNESTO**
5 **HERNANDEZ)**

6 23. The preceding paragraphs of this Complaint are incorporated by reference.

7 24. Defendant LUIS ERNESTO HERNANDEZ acted with the intention of causing or
8 reckless disregard of the probability of causing emotional distress when Defendant LUIS
9 ERNESTO HERNANDEZ sexually assaulted Plaintiff as he was in the kitchen area of the
10 rental unit with such force that Plaintiff suffered injuries and damages.

11 25. Defendant LUIS ERNESTO HERNANDEZ's conduct as set forth above was so
12 outrageous as to exceed all bounds of that usually tolerated by a civilized community.

13 26. As a result of Defendant LUIS ERNESTO HERNANDEZ'S socially unacceptable
14 conduct set forth above the Plaintiff has suffered severe and extreme emotional distress
15 including, but not limited to, highly unpleasant mental suffering and anguish that entails
16 such intense, enduring and nontrivial emotional distress that no reasonable person in a
17 civilized society would be expected to endure.

18 27. Defendant LUIS ERNESTO HERNANDEZ's outrageous conduct was the actual
19 and proximate cause of Plaintiff's emotional distress.

20 28. Defendant LUIS ERNESTO HERNANDEZ's outrageous, malicious, oppressive and
21 despicable conduct as set forth above was intended to cause injury to the Plaintiff and
22 subjected the Plaintiff to cruel and unjust hardship with a willful and conscious disregard for
23 the Plaintiff's rights and safety such that Defendant is subject to punitive damages as set
24 forth in California Civil Code § 3294.

25 **FOURTH CAUSE OF ACTION**

26 **(Negligence Against All Defendants)**

27 29. The preceding paragraphs of this Complaint are incorporated by reference.
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30. At the time, the aforementioned the SUBJECT PREMISES was owned, rented, managed, leased, supervised, inspected, operated, maintained and/or controlled by Defendants AIRBNB, INC., a Delaware corporation; LUIS ERNESTO HERNANDEZ, an individual; and DOES 1-50, inclusive, and each of them in a negligent, careless and reckless manner so as to proximately cause the aforementioned sexual assault.

31. Defendants AIRBNB, INC., a Delaware corporation; and DOES 1-50, inclusive, negligently, carelessly, recklessly, and wantonly caused injury to Plaintiff in that Defendants, as the owners, lessors, sub-lessors, managing agents, landlords, renters, managers, operators, marketers, inspectors, maintainers and controllers of the SUBJECT PREMISES in which the subject sexual assaults occurred, allowed Defendant LUIS ERNESTO HERNANDEZ to conduct himself in such a manner that resulted in the sexual assault of Plaintiff.

32. As a direct and proximate result of the negligence, carelessness, recklessness, wantonness and unlawfulness of Defendants AIRBNB, INC., a Delaware corporation; LUIS ERNESTO HERNANDEZ, an individual; and DOES 1-50, inclusive, and each of them, Plaintiff sustained severe and serious injury to his person, all to Plaintiff's damages in a sum within the jurisdiction of this Court and to be shown according to proof.

33. By reason of the foregoing, Plaintiff has been required to employ the services of hospitals, physicians and other professional services, and Plaintiff is informed and believes that further services of a said nature will be required by Plaintiff is an amount to be shown according to proof.

34. Plaintiff is informed and believes that Defendants AIRBNB, INC., a Delaware corporation; and DOES 1-50, inclusive, and each of them, having sole and exclusive custody and control of the SUBJECT PREMISES and of the activities occurring at said premises, reasonably knew and or should have known about Defendant LUIS ERNESTO HERNANDEZ's behavior and actions, and took no action to prevent or discourage such behavior and actions, thereby placing Plaintiff directly at risk.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

1. AS TO THE FIRST CAUSE OF ACTION AGAINST DEFENDANT LUIS ERNESTO HERNANDEZ, AS FOLLOWS:

- a. For general damages in a sum according to proof at time of trial;
- b. For special damages in a sum according to proof at time of trial;
- c. For punitive and/or exemplary damages in an amount appropriate to punish Defendant and deter others from engaging in similar misconduct;

2. AS TO THE SECOND CAUSE OF ACTION AGAINST DEFENDANT LUIS ERNESTO HERNANDEZ, AS FOLLOWS:

- a. For general damages in a sum according to proof at time of trial;
- b. For special damages in a sum according to proof at time of trial;
- c. For punitive and/or exemplary damages in an amount appropriate to punish Defendant and deter others from engaging in similar misconduct;

3. AS TO THE THIRD CAUSE OF ACTION AGAINST DEFENDANT LUIS ERNESTO HERNANDEZ, AS FOLLOWS:

- a. For general damages in a sum according to proof at time of trial;
- b. For special damages in a sum according to proof at time of trial;
- c. For punitive and/or exemplary damages in an amount appropriate to punish Defendant and deter others from engaging in similar misconduct;

4. AS TO THE FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS, AS FOLLOWS:

- a. For general damages in a sum according to proof at time of trial;
- b. For special damages in a sum according to proof at time of trial;

5. AS TO ALL CAUSES OF ACTION AGAINST EACH AND EVERY DEFENDANT, AS FOLLOWS:

- a. For costs of suit herein incurred;
- b. For prejudgment interest at the legal rate;

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c. For such other and further relief as the court may deem just proper.

DATED: March 5, 2024

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Delina Chantel Yasmeh, Esq.
Attorneys for Plaintiff,
JOHN DOE T.F.

JURY TRIAL DEMANDED

Plaintiff demands trial by jury of all issues so triable.

DATED: March 5, 2024

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Attorneys for Plaintiff,
JOHN DOE T.F.